

## ATTORNEYS' FEES UNDER TRADING WITH THE ENEMY ACT

JUNE 12, 1956.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

Mr. KLEIN, from the Committee on Interstate and Foreign Commerce,  
submitted the following

### R E P O R T

[To accompany S. 1146]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 1146) to further amend section 20 of the Trading With the Enemy Act, relating to fees of agents, attorneys, and representatives, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### PURPOSE OF LEGISLATION

The purpose of the proposed legislation is to eliminate a requirement now in the Trading With the Enemy Act that the Office of Alien Property be required to pass upon the reasonableness of attorneys' fees although such fees do not exceed 10 percent of the property to be returned. This legislation has been requested by the Attorney General because the required examination into individual fees has proved to be an extremely onerous burden which serves no useful purpose. There appears to be no reason why claimants under the Trading With the Enemy Act should be afforded governmental protection not accorded to any other claimants against the United States.

Section 20 of the Trading With the Enemy Act now requires that, with respect to certain claims for returns or payments under the Trading With the Enemy Act, the President, or his designee, make a determination that individual fees paid to attorneys or other representatives of claimants do not exceed fair compensation for the services rendered and that the aggregate of the fees does not exceed 10 percent of the value of such property or interest, or proceeds of such payment. Section 20 further provides that an aggregate of fees in excess of 10 percent of the value of such property or interest or proceeds shall be

approved only if a Federal district court finds that there exist special circumstances of unusual hardship which require payment of such excess.

The only requirement which would be removed by the proposed legislation is that the President or his designee (the Director of the Office of Alien Property, Department of Justice) be required to pass upon the reasonableness of the attorneys' fees. The legislation here proposed retains the requirement that an attorney for claimants under the Trading With the Enemy Act may only receive 10 percent of the value of property or interest or proceeds to be returned unless such attorney is able to establish before a Federal district court that there exist special circumstances of unusual hardship which require payment in excess of that amount.

Also, the proposed legislation does not disturb the existing provision of law making any person who accepts a fee in excess of 10 percent, without court approval, guilty of a violation of the act and punishable if convicted, by a fine of not more than \$10,000, or imprisonment for not more than 10 years, or both (40 Stat. 425).

#### DEPARTMENTAL REPORTS

The reports of the Bureau of the Budget and of the Department of Justice on the bill are as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
Washington, D. C., June 6, 1954.

Hon. J. PERCY PRIEST,  
*Chairman, House Committee on Interstate and Foreign Commerce,  
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: This is in reply to your letter of March 22, 1956, requesting the views of this Bureau with respect to S. 1146, a bill to further amend section 20 of the Trading With the Enemy Act, relating to fees of agents, attorneys, and representatives.

For the reasons given in the Attorney General's letter transmitting the draft bill which was introduced as S. 1146, the Bureau of the Budget recommends that your committee give favorable consideration to that bill.

Sincerely yours,

PERCY RAPPAPORT,  
*Assistant Director.*

DEPARTMENT OF JUSTICE,  
Washington, D. C., April 4, 1956.

Hon. J. PERCY PRIEST,  
*Chairman, Committee on Interstate and Foreign Commerce,  
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (S. 1146) to further amend section 20 of the Trading With the Enemy Act, relating to fees of agents, attorneys, and representatives.

As you know, this legislation was introduced in the Senate as S. 1146 and in the House as H. R. 3460 at the request of the Attorney General

for the reasons set forth in identical letters to the Vice President and to the Speaker dated January 27, 1955.

On March 19, 1956, S. 1146 passed the Senate without any substantive changes.

Attached for ready reference are copies of the Attorney General's letters to the Vice President and to the Speaker. In view of the non-controversial nature of this legislation, it is hoped that your committee may give it early and favorable consideration.

Sincerely,

WILLIAM P. ROGERS,  
*Deputy Attorney General.*

JANUARY 27, 1955.

The SPEAKER,  
*House of Representatives,*  
*Washington, D. C.*

DEAR MR. SPEAKER: There is attached for your consideration and appropriate action a legislative proposal to further amend section 20 of the Trading With the Enemy Act, relating to fees of agents, attorneys, and representatives.

With respect to certain claims for returns or payments under the Trading With the Enemy Act, as amended, the President or his designee is required to make a determination that the individual fees paid to attorneys or other representatives of claimants "do not exceed fair compensation for the services rendered and that the aggregate of the fees does not exceed 10 per centum of the value of such property or interest or proceeds or of such payment" (60 Stat. 54; 50 U. S. C. App. 20). The attached proposal, which this Department recommends be enacted, while retaining the 10 percent ceiling on the aggregate of the fees would eliminate the requirement of determining that the individual fees do not exceed fair compensation.

The required examination into individual fees has proved to be an extremely onerous burden which serves no useful purpose. Not only has experience shown that in the vast majority of cases the fees requested have been fair, but the 10 percent ceiling which would remain on the aggregate of the fees would continue to serve as a guard against unreasonable individual fees, since most claims involve relatively small amounts. Where substantial amounts are involved, claimants can secure competent independent opinions as to the reasonableness of fees and do not require governmental assistance or protection. Furthermore, there would seem to be no reason why claimants under the Trading With the Enemy Act should be afforded a protection not accorded to any other claimants against the United States.

The early introduction of this proposal would be appreciated.

The Bureau of the Budget has advised that there is no objection to the submission of this recommendation.

Sincerely,

\_\_\_\_\_, *Attorney General.*

#### CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as

passed by the Senate, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 20 OF THE TRADING WITH THE ENEMY ACT, AS AMENDED  
(60 STAT. 54; 50 U. S. C. APP. 20)

SEC. 20. No property or interest or proceeds shall be returned under this Act, nor shall any payment be made or judgment awarded in respect of any property or interest vested in or transferred to [the Alien Property Custodian unless a schedule] *any officer or agency of the United States under this Act unless satisfactory evidence is furnished to the President or such officer or agency as he may designate, or the court, as the case may be, that the aggregate of the fees to be paid to all agents, attorneys at law or in fact, or representatives, for services rendered in connection with such return or payment or judgment* [ , has been furnished to, and approved in accordance with this section by, the President or such officer or agency as he may designate, or the court, as the case may be. In the case of any return of, or the making of any payment in respect of, any such property or interest or proceeds (other than pursuant to an order of a court), the President or such officer or agency as he may designate may make such modifications, if any, as are appropriate, and shall approve such schedule only upon determining that the individual fees do not exceed fair compensation for the services rendered and that the aggregate of the fees] does not exceed 10 per centum of the value of such property or interest or proceeds or of such payment. [Any person aggrieved by the determination of the President or of such officer or agency as he may designate may petition the district court of the United States for the district in which he resides to review the determination, and shall name the person or agency making the determination a party defendant.] *Any agent, attorney at law or in fact, or representative, believing that the aggregate of the fees should be in excess of such 10 per centum may, in the case of any return of, or the making of any payment in respect of, such property or interest or proceeds by the President or such officer or agency as he may designate, petition the district court of the United States for the district in which he resides for an order authorizing fees in excess of 10 per centum and shall name such officer or agency as respondent.* The court hearing such petition [for review], or a court awarding any judgment in respect of any such property or interest or proceeds, as the case may be, [may make such modifications, if any, as are appropriate, and shall approve such schedule only upon determining that the individual fees do not exceed fair compensation for the services rendered, and] shall approve an aggregate of fees in excess of 10 per centum of the value of such property or interest or proceeds only upon a finding that there exist special circumstances of unusual hardship which require the payment of such excess. Any person accepting any fee in excess of an amount approved hereunder, or retaining for more than thirty days any portion of a fee, accepted prior to approval hereunder, or retaining for more than thirty days any portion of a fee, accepted prior to approval hereunder, in excess of the fee as approved, shall be guilty of a violation of this Act.